

FOLEY & LARDNER LLP

Erik K. Swanholt (SBN 198042)
eswanholt@foley.com
555 South Flower Street, Suite 3300
Los Angeles, CA 90071
Tel: (213) 972-4614
Fax: (213) 972-4757

FOLEY & LARDNER LLP

Kelsey C. Boehm (pro hac vice)
kboehm@foley.com
1400 16th Street, Suite 200
Denver, CO 80202
Tel: (720) 437-2012
Fax: (720) 437-2200

*Attorneys for Defendant Del Monte Foods,
Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

KERSTINE BRYAN, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

v.

DEL MONTE FOODS, INC.,

Defendant.

Case No.: 23-cv-00865-MMC
Hearing: 10/20/23 at 9:00AM

Assigned to Hon. Maxine M. Chesney

**[PROPOSED] ORDER GRANTING
DEFENDANT DEL MONTE FOODS,
INC.'S MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

United States District Court
Northern District of California

TO EACH PARTY AND THEIR ATTORNEYS OF RECORD:

Defendant Del Monte Foods, Inc.’s (“Defendant”) Motion to Dismiss Plaintiff’s First Amended Complaint (“Motion”) came on for hearing in Courtroom 7–19th Floor, of the above-captioned Court, located at 450 Golden Gate Avenue, San Francisco, CA 94102, and counsel of record appeared for both parties.

The Court, having considered the pleadings in this matter, and all arguments and papers submitted in support of, and in opposition to, said Motion, and good cause appearing therefore, orders as follows:

1. All of Plaintiff’s claims fail as a matter of law because a reasonable consumer cannot be misled by the labels of Del Monte’s products. (Counts I–III.) *McGinity v. Procter & Gamble Co.*, 69 F.4th 1093, 1098 (9th Cir. 2023).

2. Plaintiff’s Amended Complaint is dismissed with prejudice.

IT IS HEREBY ORDERED.

DATED:

Hon. Maxine M. Chesney
U.S. District Court Judge